

DOCKET NO. 9491-050-27 REISSUE



#7

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

IN RE REISSUE                      U.S. PATENT 4,968,603                      ART UNIT:  
APPLICATION OF:  
SERIAL NO.: NEW REISSUE APPLICATION                      EXAMINER:  
FILING DATE: HERewith  
FOR:                      DETERMINATION OF STATUS IN NEOPLASTIC DISEASE

**REISSUE DECLARATION**

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

We, Regents of the University of California; The Board of Regents for the University of Texas System and Genentech, Inc., do hereby declare and state that:

1. We are the joint assignees of U.S. Patent 4,968,603, and the reissue application therefor submitted herewith.
2. All of us are legal persons of the United States of America.
3. We have reviewed and understand the contents of the Specification, including the claims, of the reissue application for U.S. Patent 4,968,603 (reissue application) submitted herewith.
4. We believe Dennis J. Slamon, William L. McGuire and Axel Ullrich to be the original and first inventors of the subject matter which is claimed in the reissue application for which a reissue patent is sought.
5. We acknowledge our duty to disclose to the United States Patent and Trademark Office all information known to us to be material to patentability as defined in 37 C.F.R. §1.56, specifically, we are aware of our duty to disclose to the United States Patent and Trademark

Office all information known to us that establishes, by itself or in combination with other information, a case of unpatentability of a claim presented in the above-captioned application, without more, or refutes or is inconsistent with a position taken by us or on our behalf in either opposing an argument of unpatentability, or asserting an argument of unpatentability.

6. We claim the benefit of priority of U.S. Patent 4,968,603, and any claims to priority therein.

7. We believe U.S. Patent 4,968,603 to be wholly or partly inoperative or invalid by reason of our claiming less than we had a right to claim, as well as failing to claim specific embodiments that we had a right to claim. Specifically, we identify as an error, the failure to advance claims narrower than those which issued which recite identification of a patient suffering from breast or ovarian adenocarcinoma as well as amplification of the HER-2 /neu as an indication of disease prognosis.

8. All errors being corrected by the reason of the filing of reissue application up to the filing of this Declaration arose without any deceptive intention on our part.

All statements made herein of our own knowledge are true and all statements made on information and belief are believed true. We are aware that willful false statements and the like are punishable by fine, imprisonment, or both, 18 U.S.C. §1001, and that such willful false statements may jeopardize the above-captioned reissue application, the validity of any patent to issue thereon, and the validity of U.S. Patent 4,968,603.

The Regents of the University of California

Dated: January 25, 2001

BY: Linda S. Stevenson  
Linda S. Stevenson  
Title: Manager, Patent Prosecution

The Board of Regents for the University of Texas System

Dated: March 8, 2001

BY: \_\_\_\_\_

Cullen M. Godfrey  
Cullen M. Godfrey

Title: Vice Chancellor and General Counsel

Genentech, Inc.

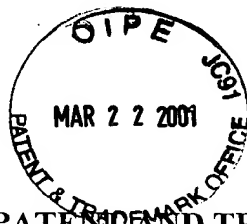
Dated: January 10, 2001

BY: \_\_\_\_\_

Sean Johnston  
Sean Johnston

Title: Vice President, Intellectual Property

DOCKET NO. 9491-050-27 REISSUE



#3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE REISSUE

U.S. PATENT 4,968,603

ART UNIT:

APPLICATION OF:

SERIAL NO.: NEW REISSUE APPLICATION

EXAMINER:

FILING DATE: HERewith

FOR: DETERMINATION OF STATUS IN NEOPLASTIC DISEASE

ASSENT OF ASSIGNEE

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ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

The (1) Regents of the University of California of Berkeley, California, (2) The Board of Regents for the University of Texas System of San Antonio, Texas, and (3) Genentech, Inc. of south San Francisco, California, are the owners of the entire right, title and interest in and to U.S. Patent 4,968,603, by reason of the assignments of all inventors interests therein, which assignments have been registered at the United States Patent and Trademark Office (e.g., Reel 4707/Frame 0977 (Regents of the University of California); Reel 5637/Frame 0484 (Board of Regents, the University of Texas System) and Reel 5594/Frame 0297 (Genentech, Inc.). On behalf of Regents of the University of California; The Board of Regents for the University of Texas System and Genentech, Inc., I hereby state that the assignments of the inventors in favor of Regents of the University of California; the Board of Regents for the University of Texas System and Genentech, Inc. of U.S. Patent 4,968,603 have been reviewed and, to the best of my knowledge and belief, title is in Regents of the University of California; The Board of Regents for the University of Texas System and Genentech, Inc.

Regents of the University of California; The Board of Regents for the University of Texas

System and Genentech, Inc hereby assent to the filing and prosecution of a reissue application seeking reissue of U.S. Patent 4,968,603, filed herewith, pursuant to the reissue declaration of the Assignees submitted herewith.

The Regents of the University of California

Dated: January 25, 2000

BY: Linda S. Stevenson  
Linda S. Stevenson  
Title: Manager, Patent Prosecution

The Board of Regents for the University of Texas System

Dated: March 8, 2001

BY: Cullen M. Godfrey  
Cullen M. Godfrey  
Title: Vice Chancellor and General Counsel

Genentech, Inc.

Dated: January 10, 2001

BY: Sean Johnston  
Sean Johnston  
Title: Vice President, Intellectual Property